IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1429 OF 2007

Mahesh Verma & Anr... ....Petitioners.
Versus
State of Maharashtra & Ors... ... Respondents.

Mr.Janak Dwarkadas, Sr.Counsel with Mr. Jose George for the Petitioners.
Mr. N.P.Pandit, AGP for Respondent No.1.
Mr. G. S. Hegde i/by M/s.Hegde & Associates for Respondent No.1.

CORAM : SWATANTER KUMAR, C.J. & DR.D.Y.CHANDRACHUD, J.

DATED : 26TH JULY, 2007.

P.C.:

During the hearing of the writ petition, respondent no.2 filed an additional affidavit on 25th July, 2007. It is stated in paragraph 2 of the said affidavit that the tender condition which was challenged as arbitrary and discriminatory by the petitioner, in fact stands deleted and substituted by the condition stated in the said affidavit. Paragraph 2 of the said affidavit reads as under:

> "2. I say that the respondent Corporation has now decided to modify the above mentioned precondition as follows:

"OEM for tyres for cross ply Nylon or Radial Tyres to Chassis manufacturing company of Heavy Duty passenger vehicle for size 9.00 x 20 or 10.00 x 20 or 11.00 x 20."

2. It is further contended on behalf of the respondents that keeping in view the fact that in Mumbai a large number of buses will have to be taken off the road for non-availability of tyres and keeping in view the coming festival season it is necessary that some special purchases be made by the respondents in furtherance to the tender already invited, despite the amendments to the disputed condition. It is further stated that 25% of the total demand would need to be dealt with urgently. However, for purchasing the tyres tenders for to meet the remaining 75% demand, the amended condition will be applied and the order will be placed as per Rules. An order is thus sought in these terms.

3. Learned Counsel appearing for the petitioners submits that, without prejudice to the rights and contentions of the petitioners including a challenge to the amended condition, the petitioners have no objection to the passing of the above order at this

stage of the proceedings.

4. In view of the joint stand taken by the Counsel appearing for the respective parties, we partially allow this writ petition in the above terms. Respondent no.3 will abide by the statement.

5. However, in the facts and circumstances of the case, we leave the parties to bear their own costs.

Sd/-

CHIEF JUSTICE

Sd/-

DR.D.Y.CHANDRACHUD,J.